

# **INITIAL STATEMENT OF REASONS**

## **California Department of Transportation**

### **Title 21, Division 2, Chapter 11 Sections 1501 through 1513.2 (not consecutive) California Code of Regulations**

#### **SPECIFIC PURPOSE OF THE PROPOSED REGULATORY ACTION**

The California Department of Transportation (“Department”) and California Transportation Commission (“CTC”) propose to revise their “Environmental Regulations” Sections 1501 through 1513.2 (not consecutive), Chapter 11, Division 2 in Title 21 of the California Code of Regulations (CCR). The purpose of the proposed amendments is to clarify the role of the CTC in cases where the Department or another public agency is the lead agency for California Environmental Quality Act (CEQA).

Section 1503.1 sets forth the CTC policies regarding the use of environmental documents. The proposed amendment would add a new subsection that clarifies that the CTC reviews and considers environmental documents and findings as part of its responsibilities to allocate funding for state or local capital projects and to approve the location of state highway routes.

Section 1505 deals with general responsibilities. The amendment would change the Article heading to Procedures and Timelines and would clarify the materials to be submitted to the CTC for its review.

Sections 1504 and 1504.5 define general terms, such as “agency” and “decision-making body.” Section 1504.5 further states that the CTC will be lead agency for purposes of adopting or rescinding State highway routes and new public road connections to freeways and expressways. These sections would be deleted.

#### **NECESSITY**

The current “Environmental Regulations” adopted by the Department and the CTC state that the CTC will be the lead agency under CEQA for purposes of adopting or rescinding State highway routes and new public road connections to freeways and expressways. A reexamination of the roles and responsibilities of the Department and the CTC in developing new highway and public road connections to freeways and expressways has revealed that it is not appropriate for the CTC to be the lead agency under CEQA.

Under CEQA, a lead agency is “the public agency with the principal responsibility for carrying out or approving a project” (Public Resources Code, Section 21067). The CEQA Guidelines (Title 14, Article 3, Section 15051, California Code of Regulations) provide further criteria for determining lead agency status. Two of the criteria are relevant here: 1) the lead agency will normally be the agency with general governmental powers, and 2) the agency which will act first on the project in question shall be the lead agency.

While the CTC is responsible for the programming and allocating of funds and the formal adoption of routes for highway improvements throughout California, it does not have the

principal responsibility for actually carrying out the improvements; at the state level the principal responsibility for approving and constructing highway projects rests with the Department. The Department's powers are more general and include all aspects of developing improvements to improve mobility across California—from early planning, to environmental document preparation, design preparation and construction. In addition, the Department acts first on highway projects; only after the Department approves the project does the CTC take action.

Both the CTC and the Department support the proposed amendments that place the CTC in a responsible agency role rather than a lead agency role.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS**

The Department and the CTC did not rely upon any technical reports, theoretical, or empirical studies, reports or documents in proposing these amendments.

#### **REASONABLE ALTERNATIVES TO THE AMENDED REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No other alternatives were presented to or considered by the Department and the CTC.

#### **ALTERNATIVES TO THE AMENDED REGULATIONS THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The Department and the CTC do not anticipate any adverse impact on small business as a result of the proposed amendments.

#### **EVIDENCE SUPPORTING AN INITIAL DETERMINATION OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

The Department and the CTC have determined that the revision of these regulations will have no cost impact on small businesses because a small business: 1) is not legally required to comply with the regulation; 2) is not legally required to enforce the regulation; 3) does not derive a benefit from the enforcement of the regulation; or 4) does not incur a detriment from the enforcement of the regulation.